

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1222 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

AVSARBHAI TULSIBHAI

Appearance:

MR HARDIK C RAWAL for Petitioner

MR GM JOSHI for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 01/03/2000

ORAL JUDGEMENT

1. Heard learned counsel for the respective parties.
Rule. Mr. Joshi, learned counsel waives service of
rule. On a joint request of the learned counsel for the
parties, this matter is taken up for final hearing today.

2. This is a petition under Article 227 of the Constitution of India though styled as one under Articles 14, 226 and 227 of the Constitution, at the instance of the Gujarat State Road Transport Corporation, challenging the judgement and award of the Labour Court in Reference [LCJ] No. 119/95.

3. The respondent herein was a conductor who in the domestic inquiry was found guilty of misconduct inasmuch as he had not issued tickets to seven passengers although he had collected fares in respect of such tickets. It was thus a case of misappropriation.

The first departmental appeal filed by the conductor was rejected, and it appears that the second departmental appeal was filed, but was not decided during the pendency of the reference. The Reference Court took a note of the fact that the default card of the conductor indicates that he has been guilty of such and similar misconducts in the past as well.

4. On the totality of the evidence on record, the Reference Court found that the order of dismissal passed by the disciplinary authority was harsh and excessive, and directed reinstatement to his original post with continuity of service, but only 60% backwages.

5. It is this judgement and award which is the subject matter of the present petition.

6. I have heard learned counsel for the respective parties on the question of appropriate and just punishment with reference to the facts and circumstances on record. I have referred to all such evidence on record to which my attention has been drawn. As a result of the hearing and discussion, learned counsel for the respective parties have arrived at a consensus to the effect that the appropriate punishment is left entirely to the discretion of this court.

7. In the premises aforesaid, I am of the view that interest of justice would be served if the impugned judgement and award is confirmed so far as reinstatement with continuity of service is concerned, but is modified to the extent that the respondent conductor would be entitled to backwages of only 30%.

8. The impugned judgement and award are modified accordingly.

9. Accordingly, rule is partly made absolute with no orders as to costs.

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